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° Rule 1:40 Qualified Mediator

**VIA EMAIL AND E-COURTS**

February 22, 2021

Hon. Analisa Torres  
United States Courthouse  
500 Pearl St.  
New York, NY 10007

**RE: Mota Bautista et al v. Countywide Builders, Inc. et al**  
**Index No.: 1:19-cv-08808-AT**  
**Our File No.: 2058-01**

Dear Sir or Madam:


This office represents Carben Construction with regarding to the above matter. As the Court may be aware, Carben recently filed a Third Party Complaint against Batrume Industries. It is Carben's position that each of the Plaintiffs was directly employed by Batrume, or some as yet unknown entity on the subject construction projects. Unfortunately, Batrume has not appeared in this lawsuit and they have had to be served through the New York Secretary of State.

After discussion with the parties, we are all in agreement that mediation would be premature. We had hoped to engage Batrume in mediation in accordance with the Court's deadlines, but that now seems impossible. Given that Carben believes that Batrume was the employer of all Plaintiffs and denies the existence of any joint employer relationship, Batrume is an indispensable party. We therefore jointly request a stay of this mediation requirement until such time as Batrume joins in this lawsuit, and/or further discovery is exchanged between the parties. Kindly advise as to the Court's position on this matter at your earliest convenience, and we thank the Court for its consideration.

GRANTED. The parties shall contact the mediation office to reschedule their mediation. The initial pretrial conference scheduled for March 3, 2021, is ADJOURNED to **April 6, 2021, at 10:20 a.m.** By **March 30, 2021**, the parties shall file their joint letter and proposed case management plan.

SO ORDERED.

Dated: March 1, 2021  
New York, New York

  
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ANALISA TORRES  
United States District Judge